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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,694	04/17/2001	Kendrick W. Kam	26592-004US	7242

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EXAMINER
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FERTIG, BRIAN E

ART UNIT	PAPER NUMBER
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3694

MAIL DATE	DELIVERY MODE
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05/07/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/836,694	KAM ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	BRIAN FERTIG	3694	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-126 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-46 and 126 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 47-125 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

### **DETAILED ACTION**

This action is in response to applicant's filing of 1/4/2008. Claims 1-126 are pending, claims 47-125 have been withdrawn, claims 1-46, 126 are examined below.

#### ***Claim Rejections - 35 USC § 112***

1. Claims 42-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 42 recites the limitation "said report". There is insufficient antecedent basis for this limitation in the claim. It is therefore, unclear as to whether applicant intends to claim a new report, the report recited in claim 13, or the rankings recited in claim 1. These claims have not been further treated on the merits.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-13, 16-17, 20, 32-37, 39-41 and 126 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fantasy Stock Market.com web site, <http://www.fantasystockmarket.com>, published May, 5, 1999, retrieved from [www.archive.org](http://www.archive.org) 5/1/2008, (Fantasy) in view of US Patent 6,606,615 to Jennings (Jennings)

With respect to claim 1

Fantasy teaches:

Method of measuring and ranking investment management performance of individual investors amongst a large universe of investors in order to create investment products for other persons as customers to invest in, comprising the steps of:

a) creating at least one personal portfolio comprising at least one financial instrument for each said individual investor participating in said performance ranking method (i.e. creating a portfolio consisting of \$100,000 Fantasy money, see Rules);

b) assigning to each of said individual investor personal portfolios a preselected financial value as at least one of a personal portfolio investor Total Account Value and a Net Asset Value at a

defined starting point in time (i.e. the preselected financial value is \$100,000 TAV and NAV at the time they sign up, see Rules);

c) permitting said individual investors to personally select and individually trade said at least one financial instrument in each said personal portfolio through a trusted independent 3rd party, said trades affecting said at least one investor Total Account Value and said Net Asset Value (see rule 4, note that investors may trade stocks and mutual funds through Fantasy Stock Market as a trusted, independent 3<sup>rd</sup> party. Because Fantasy Stock Market keeps track of the portfolio and how players are doing, it is implicit that trades effect TAV and NAV, see Rules, see also Standings);

d) tracking said personal portfolio at least one investor Total Account Value and said Net Asset Value of each said investor by the trusted 3rd party (see rule 4, note that Fantasy Stock Market keeps track of how players are doing, See Rules, see also Standings);

e) said trusted 3rd party periodically ranking the performance of at least some of said investor's personal portfolios based on change in at least one of an investor Total Account Value and a Net Asset over a determined period of time as a metric for credibly determining individual best investors from among the universe of

participating investors (see Standings, note that the standings are based on Fantasy Value); and

Fantasy does not explicitly teach:

f) selecting at least one of the individual best investors whose personal portfolios have been ranked over time as a fund manager to select financial instruments for inclusion in an investment product to be offered to other persons as customers as an investment opportunity.

Jennings teaches:

f) selecting at least one of the individual best investors whose personal portfolios have been ranked over time as a fund manager to select financial instruments for inclusion in an investment product to be offered to other persons as customers as an investment opportunity (see col 1, lines 1-64, note that Jennings discloses online contests like Fantasy Stock Market.com as a solution for investors seeking to select an investment advisor. Note further that it is implicit that the best investors would choose financial instruments for inclusion in investment products offered to customers, since they would be selected as investment advisors by investors and a primary function of an investment advisor is the selection of financial securities).

It would have been obvious to one having ordinary skill in the art to have provided Fantasy with the financial advisor selection disclosure of Jennings since Jennings explicitly discloses the link between contests such as Fantasy Stock Market.com and financial advisor selection.

With respect to claim 2

Fantasy in view of Jennings teaches:

A method as in claim 1 (see rejection of claim 1 above) which includes the added step of said trusted 3rd party periodically reporting to at least one of said participating investors and potential investment product customers, said performance ranking of at least selected participating investors' personal portfolios (see Fantasy, Standings, note that the rankings based on Fantasy value are reported to the public, including both participating investors and customers, via the Standings page)

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 3

Fantasy in view of Jennings teaches:

A method as in claim 1 (see rejection of claim 1 above) wherein said individual investor performance is based on percent change in personal investor Total Account Value or Net Asset Value per unit over at least one determined period of time (see Fantasy, Standings, note the standings are reported in terms of % Gain or loss, per unit of initial Fantasy Money

(implied by the %Gain being equal to the absolute gain/100,000 of initial Fantasy Money). Note further that the period of time is as of the close of market, Thursday March 2nd).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 4

Fantasy in view of Jennings teaches:

A method as in claim 3 (see rejection of claim 3 above) wherein said individual investor performance is ranked against at least one of: a) a market, and b) other individual investors. (i.e. other investors, see Fantasy, Standings).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 5

Fantasy in view of Jennings teaches:

A method as in claim 4 (see rejection of claim 4 above) wherein each individual investor selects at least one financial instrument comprising said portfolio (see Fantasy rule 4, Rules, note that investors trade stock and mutual funds).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 6



Fantasy in view of Jennings teaches:

A method as in claim 5 (see rejection of claim 5 above) wherein the financial instruments are selected from a pre-determined set of financial instruments (see Fantasy rule 4, Rules, note that stocks and mutual funds on major US Exchanges and priced at \$5 or more).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 7

Fantasy in view of Jennings teaches:

A method as in claim 1 (see rejection of claim 1 above) wherein said portfolio is a model portfolio (see Fantasy rule 1, Rules, note that Fantasy Stock Market is for entertainment only implying that the portfolio's are models, and not real investments).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 8

Fantasy in view of Jennings teaches:

A method as in claim 7 (see rejection of claim 7 above) wherein said trades are virtual trades carried out by said trusted 3rd party in a simulated market managed by said trusted 3rd party (see Fantasy Rules, generally, note that the Fantasy Stock Market conducts the trades using Fantasy

Money which implies that the trades are virtual and conducted on a simulated market)

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 9

Fantasy in view of Jennings teaches:

A method as in claim 8 (see rejection of claim 8 above) wherein said simulated market is a rules-based market (see Fantasy, Rules, note that the simulated market is rules-based in so far as there are rules concerning which securities are available, what type of trading is allowed, and in what increments trades are accepted).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 10

Fantasy in view of Jennings teaches:

A method as in claim 9 (see rejection of claim 9 above) wherein:

- a) said virtual trades mirror trades of corresponding real financial instruments (see Fantasy Rules, note that the virtual trades mirror real instruments in so far as the model instruments are drawn from major U.S. Exchanges, see also Game Stats); and
- b) said trusted third party executes said virtual trades in said virtual market at values corresponding to trades of corresponding

real financial instruments reported for times substantially corresponding to the virtual trade request by said individual investor (see Fantasy, Game Stats page, note the link to Stock Quotes in the left column and the reporting of the various real indexes on the center of the page. The combinations of these disclosures fairly suggests the correspondence between fantasy and real trades).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 11

Fantasy in view of Jennings teaches:

A method as in claim 10 (see rejection of claim 10 above) wherein said trusted third party reports said trades to said participating individual investors by electronic communication (see Fantasy Standings and Game Stats, note that these reports are made via the Internet. Note also the Fantasy Transaction link in the left column under the Fantasy account heading, suggesting the individual trade information is also reported to investors via the Internet).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 12

Fantasy in view of Jennings teaches:

A method as in claim 11 (see rejection of claim 11 above) wherein said communication is effected via the Internet in order to enable near real-time operation (see Fantasy generally, note that the pages are available via URL, implying communication via the Internet).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 13

Fantasy in view of Jennings teaches:

A method as in claim 12 (see rejection of claim 12 above) which includes providing said participating individual investors with at least one virtual portfolio analytic report (see Fantasy Rules, rule 4, note that players will be able to see the transaction history of players, see also Standings, and Game Stats. Note that these are all analytic reports in do far as they contain information allowing investors to learn investing by examining trades of their peers. Note further that the definition of analytic is taken from the example suggested by Applicant's disclosure, see page 6. Note that the reports are also analytical in so far as they present the standings, broken down with statistics related to value, gain/loss, and percentage gain/loss and also present summary statistics such as median Balances, and detailed analysis of the standings including % of players in various earning categories and groupings).

With respect to claim 16

Fantasy in view of Jennings teaches:

A method as in claim 12 (see rejection of claim 12 above) wherein information on at least one of said individual investor virtual portfolios is made available to other persons on at least one of: a) free, and b) a paid subscriber basis. (see Fantasy, Standings, note that information on an investors portfolio is made available to the public, at least, for free in so far as the ranking of the portfolio is displayed)

With respect to claim 17

Fantasy in view of Jennings teaches:

A method as in claim 12 (see rejection of claim 12 above) wherein information comprising ranking of individual investor performance is posted on a web site, and said web site includes at least one bulletin board on which individual investors may make postings regarding the market (see Fantasy, Standings, and Game Stats, note that the ranking is displayed on the status page and a link to a Message Board and Add a Message is displayed on the Game Stats page).

With respect to claim 20

Fantasy in view of Jennings teaches:

A method as in claim 1 (see rejection of claim 1 above) wherein said universe of investors comprises on the order of greater than about 1000 persons. (see Fantasy Game Stats, note that Customer ID numbers are

listed over 6,000 suggesting that the method incorporates more than 1000 people)

With respect to claim 32

Fantasy in view of Jennings teaches:

A method as in claim 9 (see rejection of claim 9 above) wherein said participating individual investors may compete against other participating investors for ranking based on individual investor performance based on percent change in at least one of personal investor Total Account Value and Net Asset Value over at least one determined period of time. time (see Fantasy, Standings, note the standings are reported in terms of % Gain or loss, per unit of initial Fantasy Money (implied by the %Gain being equal to the absolute gain/100,000 of initial Fantasy Money). Note further that the period of time is as of the close of market, Thursday March 2nd).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 33

Fantasy in view of Jennings teaches:

A method as in claim 32 (see rejection of claim 32 above) wherein said participating individual investor may compete for ranking base on a plurality of model portfolios. (see Fantasy, Rules, note that there is no

limitation preventing a single investor from enrolling multiple times, note further that multiple user accounts for a single user is an obvious duplication of capability that has no patentable significance since no new or unexpected result is produced, (see MPEP 2144.04, Duplication of Parts, note the conclusion of the court in *In re Harza*). In this case, the method would operate in the same manner and score and rank the accounts in the same way)

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 34

Fantasy in view of Jennings teaches:

A method as in claim 33 (see rejection of claim 33 above) wherein said rankings determine best investors in at least one of: a) a predetermined time period, b) a series of time periods, c) market sectors, and d) overall performance (see Fantasy, Standings and Rules, rule 3, note that the investors are ranked for predetermined time periods of a month).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 35

Fantasy in view of Jennings teaches:

A method as in claim 34 (see rejection of claim 34 above) wherein prizes are awarded to a predetermined set of best investors (see Fantasy Rules, rule 5 and Prizes).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 36

Fantasy in view of Jennings teaches:

A method as in claim 32 (see rejection of claim 32 above) wherein information on said competition is made available to other persons on at least one of: a) free, and b) a paid subscriber basis (see Fantasy, Standings, note that information on an investors portfolio is made available to the public, at least, for free in so far as the ranking of the portfolio is displayed).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 37

Fantasy in view of Jennings teaches:

A method as in claim 36 (see rejection of claim 36 above) wherein information comprising the ranking of individual investor performance in said competition is posted on a web site, and said web site includes at least one bulletin board on which participating individual investors may make postings on at least one of: a) the market; b) virtual trades by an



individual investor, c) the competition; and d) the rankings. (see Fantasy, Game Stats, note the link to a Message Board and Add a Message displayed on the left column of the Game Stats page)  
(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 39

Fantasy in view of Jennings teaches:

A method as in claim 37 (see rejection of claim 37 above) wherein, on a paid subscription basis, subscribers may access at least one of model portfolio trades and bulletin board postings of participating individual investors. (see Jennings col 17, lines 5-17 in combination with Fantasy, Rules, rule 4, and Game Stats. Note that Jennings teaches collection of a fee to participants and that Fantasy teaches that players will be able to view transaction history of players on the standings page. Note also that Fantasy discloses accessing bulletin board postings by depicting a link to a Message Board on the Game Stats page)  
(see rationale supporting obviousness and motivation to combine of claim 1 above, note further that it would have been obvious to one having ordinary skill at the time of applicant's invention to have provided Fantasy with the fee feature of Jennings in order to have populated the game with players who are self-selected as taught explicitly by Jennings, see col 17, lines 5-17)

With respect to claim 40

Fantasy in view of Jennings teaches:

A method as in claim 7 (see rejection of claim 7 above) wherein said participating individual investor performance rankings are used to select at least one manager[s] for real portfolios (see Jennings col 1, lines 1-64, note that Jennings discloses online contests like Fantasy Stock Market.com as a solution for investors seeking to select an investment advisor. Note further that it is implicit that the best investors would choose financial instruments for inclusion in investment products offered to customers, since they would be selected as investment advisors by investors and a primary function of an investment advisor is the selection of financial securities).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 41

Fantasy in view of Jennings teaches:

A method as in claim 40 (see rejection of claim 40 above) wherein a registered investment company is formed for trading shares in a fund comprising real financial instruments managed by said selected manager (see Jennings col1, line 1-64, note that it is implicit that a registered investment company be formed since it is necessary of the trading entity to be registered when trading real shares on behalf of clients).

(see rationale supporting obviousness and motivation to combine of claim 1 above, note that such a company may have existed before the competition and selection of the manager)

With respect to claim 126

Fantasy in view of Jennings teaches:

A method as in claim 1 (see rejection of claim 1 above) which includes providing to at least some of said participating individual investors communication or reporting features selected from at least one of:

- a) an overall performance report;
- b) a volatility report;
- c) a stratification report;
- d) a market timing report;
- e) a Gs/E or GE/S Ratio in table, chart or graphical format;
- f) an analysis of top investment performers of the participating individual investors;
- g) a private discussion forum for exchange of investment ideas;
- h) a barometer report on at least one fund developed by identified participating individual investors who have been ranked as best investors; i) reports on trades by top performing participating individual investors;
- j) ranking-sortable investment ideas forum or bulletin boards;

k) investor-sortable investment ideas or comments forum or bulletin boards;

l) private portfolio tracking; and

m) a fundamentals analysis.

(see Fantasy, Standings, Rules, rule 4, and Game Stats. Note the analysis of top investment performers, the message board, and the disclosure in rule 4 that players will be able to see the transaction history of players on the standings pages)

(see rationale supporting obviousness and motivation to combine of claim 1 above)

5. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fantasy in view of Jennings and in further view of US Patent 6,012,042 to Black (Black)

With respect to claim 14

Fantasy in view of Jennings teaches:

A method as in claim 13 (see rejection of claim 13 above),but does not explicitly teach wherein said at least one report is a report on portfolio stratification, volatility, market timing, and company Gs/E or GE/s Ratio performance.

Black teaches:

wherein said at least one report is a report on portfolio stratification, volatility, market timing, and company Gs/E or GE/s Ratio performance

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(see col 1, line 29 – col 2, line 41, note that reports based on technical and fundamental analysis are disclosed. portfolio stratification, volatility, and ratios are fairly suggested by fundamental analysis and market timing is fairly taught by technical analysis).

It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have provided the report of Fantasy with the technical and fundamental analysis reporting of Black in order to have allowed individuals to have tracked their portfolios automatically in order to spot a hot issue, deduce patterns, and make purchases in anticipation of a trend as taught explicitly by Black (see col 1, lines 29-40).

With respect to claim 15

Fantasy in view of Jennings and Black teach:

A method as in claim 14 (see rejection of claim 14 above) wherein said volatility report includes individual investor portfolio ranking against at least one of: a) at least one of a real and a virtual market and b) other individual investors. (i.e. other investors, see Fantasy Rules, rule 4, and Standings, and Game Stats)

(see rationale supporting obviousness and motivation to combine of claims 1 and 14 above)

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6. Claims 18-19 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fantasy in view of Jennings and in further view of US Patent 6,370,526 to Agrawal (Agrawal)

With respect to claim 18

Fantasy in view of Jennings teaches:

A method as in claim 17 (see rejection of claim 17 above) but does not explicitly teach wherein said bulletin board postings are sortable by at least one of: a) author, b) the ranking of the author's individual investor portfolios, c) identified financial instruments, and d) market sectors.

Agrawal teaches:

wherein said bulletin board postings are sortable by at least one of: a) author, b) the ranking of the author's individual investor portfolios, c) identified financial instruments, and d) market sectors (i.e. sorting by author, see col 1, lines 60-67)

It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have provided the Message Board of Fantasy with the sorting feature of Agrawal in order to allow a user to concentrate on more important objects as taught explicitly by Agrawal (see col 1, lines 10-30).

With respect to claim 19

Fantasy in view of Jennings and Agrawal teaches:

A method as in claim 18 (see rejection of claim 18 above) wherein, on a paid subscription basis, subscribers may access at least one of model

portfolio virtual trades and bulletin board postings of participating individual investors (see Jennings col 17, lines 5-17 in combination with Fantasy, Rules, rule 4, and Game Stats. Note that Jennings teaches collection of a fee to participants and that Fantasy teaches that players will be able to view transaction history of players on the standings page. Note also that Fantasy discloses accessing bulletin board postings by depicting a link to a Message Board on the Game Stats page).

(see rationale supporting obviousness and motivation to combine of claims 1 and 18 above)

With respect to claim 38

Fantasy in view of Jennings and Agrawal teaches:

A method as in claim 37 (see rejection of claim 37 above) wherein said bulletin board postings are sortable by at least one of: a) author, b) the ranking of the author's individual investor portfolios, c) 10 identified financial instruments, and d) market sectors. (i.e. sorting by author, see Agrawal, col 1, lines 60-67)

(see rationale supporting obviousness and motivation to combine of claims 1 and 18 above)

***Response to Arguments***

7. Applicant's arguments, see pages 19-20, filed 12/03/2007, with respect to the rejection of claims 1-46 and 126 under 35 USC. § 112 have been fully considered and

are persuasive. The rejection of claims 1-46 and 126 under 35 USC § 112 has been withdrawn in favor of the rejection above.

8. Applicant's arguments with respect to claims 1-46, and 126 have been considered but are moot in view of the new ground(s) of rejection. In response to Applicant's argument that Jennings is non-productive and misleading, Examiner respectfully disagrees. Jennings very clearly discloses the use of investment contests as a solution for selecting Investment Advisors and invites a combination with Fantasystockmarket.com as described in the rejection above. Jennings also teaches the notion of charging a fee to contest participants.

***Allowable Subject Matter***

9. Claims 21-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter:

10. Claim 21 recites "teach wherein said trusted third party is at least one of: i) a registered investment advisor, and ii) a registered broker/dealer; and b) at least some of said participating individual investor's trades are real trades reported to said trusted 3rd party as executed. Fantasy in view of Jennings teach away from this in so far as Fantasy communicates all portfolio values in terms of 'Fantasy Money' and specifically indicates that its method is for entertainment purposes only (see Fantasy Rules, rules 1-3). The closest art of record is US Patent Application Publication 6,012,042for



Sabourian teaching a method whereby a promotion consisting allowing participants to create a real portfolio of stock is disclosed. This portfolio is sold automatically if it suffers a loss greater than a predetermined amount. Sabourian, however, fails to be prior art.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN FERTIG whose telephone number is (571)270-5131. The examiner can normally be reached on Monday - Friday 8:30am to 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B.F./

/Mary Cheung/

Primary Examiner, Art Unit 3694